

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CENTRAL SECTION

CIVIL ACTION NO. 04-40027-FDS

DAVINCI BIOMEDICAL RESEARCH)
PRODUCTS, INC.)
Plaintiff,)
)
vs.)
)
TOSHIBA AMERICA MEDICAL)
SYSTEMS, INC.)
Defendant,)

**JOINT MOTION SEEKING ENLARGEMENT
OF SCHEDULING ORDER DEADLINES**

Now come the Parties, and by their undersigned counsel, respectfully request that this Honorable Court enlarge the deadlines contained in the September 4, 2004 Scheduling Order by five months. As reason for this request, the undersigned state that they have been unable to complete fact depositions as of this date, despite a diligent attempt on both sides to do so.

This case concerns claims against an international corporation involving an expensive and complicated medical instrument. Despite some disagreement on document production, the parties worked cooperatively to resolve the disputes instead of rushing before the Court. Under the circumstances, document production took much longer than either party anticipated.

The parties have scheduled three of the five proposed depositions to be completed within the next 30 days. However, it is likely that at least two depositions will be pushed into late August, 2005. This is due to vacation schedules in July, and the Trial Schedule of Plaintiff's

Counsel (including a week-long trial involving a shareholder dispute commencing on August 9th, 2005 in the United States District Court, District of Massachusetts, Eastern Division, before Judge Gorton, and a three-day trial in the Worcester District Court involving a complicated medical billing dispute, immediately thereafter).

Based on the foregoing, the Parties jointly request that the September 9, 2004 Scheduling Order deadlines from item (2) fact depositions through item (6) be extended five months. The parties have not previously sought enlargement of Court deadlines and no prejudice shall result.

WHEREFORE, both parties request that their joint motion be allowed.

Respectfully Submitted,

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